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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,725	12/04/2003	John Paul Weirich		4004

7590 08/24/2006  
JOHN WEIRICH  
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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT PAPER NUMBER

3739

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,725	<b>Applicant(s)</b> WEIRICH, JOHN PAUL	
	<b>Examiner</b> Matthew J. Kasztejna	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/4/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 6, 2006 has been entered.

### ***Notice of Amendment***

In response to the amendment filed on June 6, 2006, amended claims 21-22 and new claims 23-26 are acknowledged. The current rejections of the claims stand. The following new and reiterated grounds of rejection are set forth:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-28 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0085994 to Fujita et al. in view of U.S. Patent No. 5,688,555 to Starr.

**In regards to claims 21-25 and 27-28**, Fujita et al. disclose a capsule imaging system comprising: imaging means for imaging at least a portion of a gastro-intestinal

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digestive tract in a subject by emitting and receiving a plurality of electromagnetic signals above three gigahertz (see paragraphs 0051-52, 0063 and 0098), a communications means for communication with at least one antenna outside of the GI digestive tract of the subject including at least one radio transmitter (see paragraph 0122); a controlling circuit to control a plurality of communication operations by the radio transmitter, and to control at least one operation of the imaging means (see Figs. 3-6); a capsule to enclose the imaging means, communications means and the controlling circuit (see Fig. 2); and a power supply 21 inside the capsule to supply electrical power to the communication means and the imaging means (see paragraph 0052). Fujita et al. are silent with respect to the imaging means including an ultra-wideband sensor system at frequencies in the radio wave spectrum substantially between 3.1 and 10.6 gigahertz. Starr teaches of an analogous imaging system and apparatus which implements ultra-wideband radar motion sensors to provide three-dimensional images in real-time. Furthermore, Starr discloses an object of the invention is to provide an imaging system for use in the biological sciences (see Cols. 1-2). It would have been obvious to one skilled in the art at the time the invention was to use an ultra-wideband imager in the apparatus of Fujita et al. to provide an alternate imaging means capable of producing an image having accurate three-dimensional structure localization with minimal distortion as taught by Starr.

**In regards to claim 26,** Fujita et al. disclose a capsule imaging system, wherein the communications transmitter unit operates in conjunction with a wearable vest-style garment for the subject having the GI digestive tract to wear as the capsule travels in

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the GI digestive tract, wherein the wearable vest-style garment includes at least one communication signal receiving antenna 4 to receive a plurality of radio wave signals from the communications transmitter unit (see Fig. 1a).

### ***Response to Arguments***

Applicant's arguments with respect to claims 21-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK *[initials]*

8/10/06

  
**LINDA C. M. DVORAK**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 3700**